

new independent claims 42, 45 and 47 have been added to clarify the language of the claims more precisely in regard to embodiments of applicant's invention for which protection is sought.

Embodiments of applicant's invention disclose a plurality of acoustical wave devices which are formed on a single wafer. During the formation of the plurality of acoustical wave devices, the piezoelectric material may not be uniform throughout the wafer. Thus, each of the plurality of acoustical wave devices will produce different frequency ranges. In order to avoid this problem, embodiment of the present invention modifies a characteristic of the device such as the pattern shape in order for all the acoustical wave devices formed on the single wafer to have uniform operational characteristics.

Newly added independent claims 42, 45 and 47 each recites a plurality of acoustical wave devices wherein a characteristic such as the pattern shape of some individual acoustic wave device within the plurality of devices is modified based on the location of the individual acoustic wave device so as to compensate for the variation of a piezoelectric characteristics created during the formation of the plurality of acoustical wave devices at the wafer. Thus, newly added independent claims 42, 45 and 47 now more clearly recite the embodiments of applicant's invention.

The Examiner has cited several references against applicant's previous independent claims. However, in order to aid in the advancement of

prosecution, applicant, below, addresses these applied references in view of the newly added claims.

It should be first noted, however, that the Examiner has applied multiple references in his 35 U.S.C. §102 rejections. MPEP 2131.01 states that only one reference should be used in making a rejection under 35 U.S.C. §102.

However, in the 35 U.S.C. §102 rejection over multiple references has been held to be proper when the extra references are cited to: (a) prove the primary reference contains an enabled disclosure; (b) explain the meaning of a term used in the primary reference; or (c) show that a characteristic not disclosed in the reference is inherent.

Applicants content that the multiplicity of references do not fall into any of categories (a), (b) or (c) described above. It appears that the references cited in the Office Action are merely illustrative of the different references which the Examiner deems may be applied to the old independent claims which are now cancelled. Therefore, applicant respectfully requests that in any future Office Action, only one reference be applied to any 35 U.S.C. §102 rejection as directed by the MPEP.

Further, all of the references to Kirshnaswamy, Vale, Japan (804), Curran, Berlincourt, and Carson each teach in one respect or another distinctive piezoelectric devices and/or acoustic wave devices or the use thereof. None of these references teach the formation of a plurality of

acoustical wave devices on a single wafer where modifications are made to
individual acoustical wave devices to compensate for variations in the
piezoelectric characteristics in order to achieve universal operational
characteristics. In various scope, this is recited in claims 42, 45 and 47. Thus,
none of the above references teach or suggest the claimed invention since they
don't teach each and every element of a claim. Accordingly, applicants
respectfully request withdrawal of the rejections.

CONCLUSION

For at least these reasons, it is respectfully submitted that claims 2-14
and 42-62 are distinguishable over the cited art. Favorable consideration and
prompt allowance are earnestly solicited.

Should the Examiner believe that anything further is necessary in order
to place the application in condition for allowance, the Examiner is invited to
contact the applicant's representative the number listed below.

Docket No. 2565-0136P

Application No. 09/202,070

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. 1.16 or under 37 C.F.R. 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH STEWART KOLASCH & BIRCH, LLP

By:

Michael K. Mutter
Registration No. 29,680

MKM:CJB/cb

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000